IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2535 OF 2006

Mr. Khema Puran Singh]
Hindu, Aged 47 yrs., Adult,]
Indian Inhabitant, Residing] Petitioner
at Room No. 5, Shantabai Chawl,]
Gundavli Gavthan, Azad Road,]
Andheri (E), Mumbai - 59]

Vs.

1) The State of Maharashtra]
(at the instance of Asstt.]
Commissioner of Police,]
Andheri Division, Mumbai] Respondents
]
2) The Dy.Commissioner of Police]
Zone 10, Greater Bombay]

Mr. C.K. Talekar for the Petitioner.
Ms. M.M. Deshmukh APP for the State.

CORAM : J.H. BHATIA, J.
DATE : 25TH APRIL, 2007

JUDGMENT

1) Rule. Rule made returnable forthwith and with consent of the parties the petition is taken up for final hearing immediately.

2) Heard Mr. Talekar, learned Counsel for the petitioner and Ms. Deshmukh, learned APP.

3) Record reveals that on 25/2/2006, Assistant Police Commissioner, Andheri Zone, Mumbai issued the notice to the present petitioner to show cause why he should not be externed from Mumbai City, Sub urban District, New Mumbai and Thane District for a period of two years. In the notice, several criminal cases and other incidents against him were mentioned. After hearing, the Dy. Commissioner of Police, Zone 10, Mumbai passed Externment Order dtd. 19/5/2006 externing the petitioner from the area of Police Commissionerate, Greater Mumbai, New Mumbai, Thane and Raigad Districts for a period of 1 year.

4) He preferred an appeal against the said externment order. The appeal was partly allowed by the order dt. 21/9/2006 passed by the Principal Secretary of the Government of Maharashtra. As per the said order, he is externed from the area of Police Commissionerate, Greater Mumbai and Thane District only. Being not satisfied, he has preferred this Writ Petition contending that there was no material to necessitate his externment from these two Districts.

5) The impugned notice reveals that several criminal cases were registered against him from

1983 to 1994 and he was also externed for one year during the year 1985. He was also detained for sometime under National Security Act during the year 1982 and 1984. The complete record against him appears to be for the period of 1983 to 1984 only.

6) On 23/8/2005, crime No. 321 of 2005 was registered at Andheri Police Station for the offence punishable under Section 504, 506(II) I.P.C. on the report lodged by one Ranjeet Puransingh, who is the brother of the present petitioner. It appears that there was some dispute between the two brothers, pertaining to their residential property. The present petitioner had made some unauthorised construction on the upper floor and about that his brother Ranjit had made a report with Municipal Corporation. On the basis of that report, Municipal Corporation took some action, but the present petitioner filed a Civil Suit before the City Civil Court and got stay order against the action of Municipal Corporation. It is alleged that after that on 27/1/2005 the present petitioner had threatened to kill his brother. Beside this, it appears that statements of three un-disclosed persons were recorded to show that the present petitioner is a dangerous person. None of

those three persons had lodged any report against the present petitioner though the alleged incidents had taken place in November and December 2005. The brother of the present petitioner had also lodged a belated report on 23rd August 2005 while according to him, he was threatened on 27th January 2005. In fact the dispute between the present petitioner and his brother appears to be result of disputes pertaining their joint family. The offence registered against the present petitioner is only under Sections 504 and 506(II) of I.P.C.

7) Taking into consideration the circumstances against the present petitioner, I find that there was no material or justification to take action for externment of the present petitioner. The authorities below have not properly considered and appreciated the allegations made against the petitioner in the show cause notice as well as in the impugned externment order.

8) For the aforesaid reasons, the impugned externment order is hereby set aside.

9) Rule made absolute.

(J.H. BHATIA, J.)